IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL (L) NO. 378 OF 2007

IN

SUMMONS FOR JUDGMENT NO. 558 OF 2006

IN

SUMMARY SUIT NO. 2529 OF 2006

Om Prakash Nahlani .. Appellant

V/s

Nilam Karamchandani .. Respondent

Mr. K.T. Kukreja i/b P.V. Nichani & Co. for the Appellant.

Mrs.V.V. Thorat for the Respondent.

CORAM : R.M.S. KHANDEPARKAR &
D.G. KARNIK, JJ.

DATE : 26TH APRIL 2007

P.C. :

1. Heard.

2. This appeal is filed against the order dated 20th March 2007 passed in Summons for Judgment No.558 of 2006 in Summary Suit No.2529 of 2006. By the impugned order, conditional leave has been granted to the Appellant to defend the suit, subject to deposit of an amount of Rs.50,000/-. The claim in the suit is for a sum of Rs.25,00,000/-.

3. The only ground on which the impugned order is sought to be challenged is that the learned Single Judge

did not consider the point regarding the relevant document being incomplete which was sought to be raised by the appellant in his reply to the Summons for Judgment. However, the records disclose that apart from merely raising that point, there was no material placed on record to substantiate the said contention which was sought to be raised before the learned Single Judge. Even in the course of hearing of the appeal, the learned advocate for the Appellant could not satisfy us with any material that there is any substance in the said point sought to be raised by the Appellant. Merely because a point is sought to be raised in the pleadings, without there being any effort to substantiate the same with necessary material in support thereto, and merely because the learned Single Judge has ignored such point while granting conditional leave and that too subjecting to deposit the sum of Rs.50,000/- in a suit for recovery of Rs.25,00,000/-, we do not find any case made out for interference in the impugned order. Appeal is therefore rejected.

4. Time to deposit the amount of Rs.50,000/-, as directed by the impugned order, is extended till 3rd May 2007.

(R.M.S. KHANDEPARKAR, J.)

(D.G. KARNIK, J.)